

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-09-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.28415 of 2007 and
M.P.No.1 of 2007

Tvl.Digital Power System
"J" Block, 144A, MMDA,
Arumbakkam,
Chennai-600 106. .. Petitioner.

Versus

The Commercial Tax Officer,
Vadapalani-I, Chennai. .. Respondent.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent dated 01.02.2005 under CST Act 60631/2002-03, quash the same and consequentially direct the respondent to entertain, consider and dispose of the representation of the petitioner dated 22.12.2004 made under Section 14 of the TNGST Act to set aside the proceedings in CST 60631/2002-03 dated 29.10.2004.

For petitioner : Mr.N.Muralikumaran for
Mc.Gan Law Firm

For respondent : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

Mr.R.Mahadevan, learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. It is submitted by the learned counsel appearing for the petitioner that the respondent had passed an ex-parte order, dated 29.10.2004, taking the taxable turn over for the year 2002-03, under the Central Sales Tax Act, 1959, at Rs.5,05,000/-. Therefore, the petitioner had made an application under Section 14(1) of the Tamil Nadu General Sales Tax Act, 1959, on 22.12.2004, requesting for re-assessment of the order passed by the respondent. However, the respondent by his proceedings in No.CST.No.60631/2002-03, dated 01.02.2005, had stated as follows:

"Please note that there is no case for re-assessment in respect of the assessment under the CST Act for the year 2002-03 requested in the petition cited falling under the provisions of Section 14 of the TNGST Act. Your petition is therefore rejected as not entertainable."

4. The Learned counsel appearing for the petitioner had submitted that the respondent had passed the above order, without giving any reasons and such a non-speaking order is unsustainable in law.

5. The learned counsel appearing on behalf of the respondent does not refute the claims made on behalf of the petitioner.

6. In such circumstances, the proceedings of the respondent in CST.No.60631/2003-03, dated 01.02.2005, is set aside and the respondent is directed to consider the representation of the petitioner, dated 22.12.2004, submitted under Section 14(1) of the Tamil Nadu General Sales Tax Act, 1959 and pass appropriate orders thereon, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is allowed. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

Index:Yes/No 12-09-2007

Internet:Yes/No

csH

To
The Commercial Tax Officer,
Vadapalani-I, Chennai.

M.JAICHANDREN J.,

csH

Writ Petition No.28415 of 2007

12-09-2007